IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR.

S.B. CIVIL WRIT PETITION NO.1653/2003

Bhanwara Ram

Versus

State of Rajasthan and Ors.

Date of Order : 28.7.2005

PRESENT

HON'BLE MR. JUSTICE R.P. VYAS

Mr.I.R. Choudhary, for the petitioner/s
Ms.R.R. Kanwar, Addl. G.A.

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The instant petition has been filed by the petitioners with the prayer that the suspension order dated 3.10.2000 (Annex.-6) may kindly be quashed and set-aside.

The brief facts of the case are that on 8.4.2000 a FIR was lodged against the petitioner at the Police Station, Nagaur for offences under Sections 420, 467, 468, 471 and 120-B IPC. The petitioner remained in custody for more than 48 hours in connection with the aforesaid FIR.

On 16.8.2000, the petitioner was placed under suspension for the reason that a departmental enquiry was contemplated against the petitioner. Later on, vide

order 25.9.2000 the suspension of the petitioner was revoked. The departmental enquiry was conducted against the petitioner and the enquiry officer did not find the petitioner guilty of the charges levelled against him. However, the matter was remanded back the Collector, Nagaur.

The petitioner was again placed under suspension vide order dated 3.10.2000, on the ground that the petitioner had remained in custody for more than 48 hours in connection with aforesaid FIR.

The main contention of the learned counsel for the petitioner is that the police, after thorough investigation, has submitted FR in the matter. Not only this, an application was submitted by the SHO, Nagaur under Sec. 169 Cr.P.C. for discharge of the petitioner. The learned CJM, Nagaur vide order dated 2.9.2002 has discharged the petitioner. Thus, the petitioner has been given clean chit in the aforesaid FIR and the arrest of the petitioner in the aforesaid case is of no consequence. Therefore, the impugned suspension order dated 3.10.2000 on the basis of arrest of

the petitioner for more than 48 hours is absolutely illegal.

Reply to the writ petition has been filed by the respondents and it has been admitted that the petitioner has been placed under suspension as he had remained in custody for more than 48 hours. However, it has been alleged that in compliance of interim order of this Court dated 17.9.2003 the suspension of the petitioner has been revoked vide order dated 16.10.2003.

Heard the learned counsel for the parties and examined the material available on record.

The petitioner was placed under suspension on account of contemplation of departmental enquiry vide order dated 16.8.2000, which was revoked vide order dated 25.9.2000. Thereafter, the petitioner was again placed under suspension on account of the fact that he had remained in custody for more than 48 hours in connection with FIR No. 168/2000. In the said FIR the police has already filed FR and the petitioner has been discharged by the CJM, Nagaur vide order dated 2.9.2002. Therefore, the arrest

of the petitioner in connection with aforesaid FIR is of no consequence and the very basis of issuance of order dated 3.10.2000 is non-existent.

For the reasons mentioned above, the present writ petition is allowed. The order dated 3.10.2000 (Annex.-6) is quashed and set-aside.

No order as to costs.

(R.P.VYAS)J.

Ss/